



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER OF PATENTS AND TRADEMARKS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/800,828	03/08/2001	Joseph B. Rissin		3652

7590 05/09/2003
STEPHEN E. FELDMAN, P.C.
12 East 41st Street
New York, NY 10017

EXAMINER

BRITTAIN, JAMES R

ART UNIT	PAPER NUMBER
----------	--------------

3677

DATE MAILED: 05/09/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

HG

Office Action Summary

Application No.

09/800,828

Applicant(s)

RISSIN ET AL

Examiner

James R. Brittain

Art Unit

3677

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 12 November 2002.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-17 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1,9,10 and 14 is/are rejected.
- 7) ☒ Claim(s) 2-8,11-13 and 15-17 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____ 6) ☐ Other: _____

DETAILED ACTION

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claim1 is rejected under 35 U.S.C. 102(b) as being clearly anticipated by Tobita (US 5669239).

Tobita (figures 1, 4) teaches jewelry clasp structure including a base plate 10 with an opening 11 therein for a jewelry post, two facing spring fingers 9 separated by slits 12 so as to frictionally engage the jewelry post and two finger tabs 10a to aid in removal of the jewelry clasp. The engagement with the post inherently includes friction.

Claim 1 is rejected under 35 U.S.C. 102(b) as being clearly anticipated by Burkett (US 4630453).

Burkett (figure 1) teaches jewelry clasp structure including a base plate 3 with an opening 11 therein for a jewelry post, two facing spring fingers 2 extending from the base plate so as to frictionally engage the jewelry post and two finger tabs 5 extending from the base plate 3 via the wings 4 to aid in removal of the jewelry clasp.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and

Art Unit: 3677

the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claim 9 is rejected under 35 U.S.C. 103(a) as being unpatentable over Tobita (US 5669239) in view of either Burkett (US 4630453) or Brumbach (US 1201549).

Tobita (figures 1, 4) teaches jewelry clasp structure including a circular base plate 10 with an opening 11 therein for a jewelry post, two facing spring fingers 9 separated by slits 12 so as to frictionally engage the jewelry post and two finger tabs 10a to aid in removal of the jewelry clasp. The finger tabs are wider than the spring fingers. The engagement with the post inherently includes friction. The difference is that the gripping tabs are shorter than the spring fingers. However, Burkett (figure 1) teaches jewelry clasp structure including a base plate 3 with an opening 11 therein for a jewelry post, two facing spring fingers 2 extending from the base plate so as to frictionally engage the jewelry post and two finger tabs 5 extending from the base plate 3 via the wings 4 to aid in removal of the jewelry clasp. The gripping tabs extend beyond the spring fingers so as to be more accessible. Similarly, Brumbach (figure 2) suggests placing extending gripping tabs 5 which extend further than the spring fingers engaging the post so as to be more accessible. It would have been obvious to modify the jewelry clasp of Tobita so that the gripping tabs extend further than the spring fingers in view of Burkett or Brumbach suggesting such structure so as to be more accessible.

Claim 10 is rejected under 35 U.S.C. 103(a) as being unpatentable over either Tobita (US 5669239) or Burkett (US 4630453) taken in view of Rissin (US 5906114).

Tobita (figures 1, 4) teaches jewelry clasp structure including a base plate 10 with an opening 11 therein for a jewelry post, two facing spring fingers 9 separated by

slits 12 so as to frictionally engage the jewelry post and two finger tabs 10a to aid in removal of the jewelry clasp. The engagement with the post inherently includes friction. Similarly, Burkett (figure 1) teaches jewelry clasp structure including a base plate 3 with an opening 11 therein for a jewelry post, two facing spring fingers 2 extending from the base plate so as to frictionally engage the jewelry post and two finger tabs 5 extending from the base plate 3 via the wings 4 to aid in removal of the jewelry clasp. The difference is that each lacks a stabilizer. However, Rissin (figures 4a, 4b) teaches that it is desirable to add a stabilizer to a frictionally securable jewelry clasp so that earrings of greater weight and size can be worn comfortably. It would have been obvious to modify the jewelry clasps of either Tobita or Burkett so that it includes a stabilizer in view of Rissin suggesting that it is desirable to add a stabilizer to a frictionally securable jewelry clasp so that earrings of greater weight and size can be worn comfortably.

Claim 14 is rejected under 35 U.S.C. 103(a) as being unpatentable over Tobita (US 5669239) in view of either Burkett (US 4630453) or Brumbach (US 1201549) as applied to claim 9 above, and further in view of Rissin (US 5906114).

Further modification of the earring of Tobita such that it includes a stabilizer would have been obvious in view of Rissin (figures 4a, 4b) suggesting that it is desirable to add a stabilizer to a frictionally securable jewelry clasp so that earrings of greater weight and size can be worn comfortably.

Response to Arguments

Applicant's arguments filed November 12, 2002 have been fully considered but they are not persuasive.

Applicant argues with respect to Burkett that two curls 2 do not suggest much less disclose spring fingers and does not disclose any elements that are the mechanical equivalents of spring fingers (Remarks, page 5, ¶4). In response, it is submitted that these curls are clearly spring fingers in that they are like a curled finger in form and comparing to applicant's drawings shows that applicant also has two curls acting as spring fingers. The argument is similarly made that the two finger tabs 5 extending from the base plate via the wings 4 are not user gripping tabs which are provided to facilitate removal of a jewelry post (Remarks, page 5, ¶4). Burkett uses the tabs 5 for removal of the post (col. 4, lines 10-11) as is clearly the case from the figures, so the argument is not persuasive.

Similar arguments are made by applicant with respect to Tobita. A finger spring requires an element to appear like a finger in form. The split tube defines two cantilevered spring elements 9 that are like a straightened finger in form. The finger contacts 10a aid in manipulating the clasp and are usable to aid in removal. A user can utilize the finger contacts 10a or not at their own choosing, but the extending finger contacts 10a and can be used to remove the clasp if so desired. Applicant's arguments are not persuasive.

Applicant states that there was no statement in the rejection of claim 9 as to why the hatpin connector of Brumbach was relied upon. A statement was made in the rejection wherein it is indicated that similar to Burkett, Brumbach (figure 2) suggests placing extending gripping tabs 5 which extend further than the spring fingers engaging the post so as to be more accessible (page 4, ¶1, lines 11-13). Brumbach is simply

utilized to show in a similar manner as Burkett that it is known to extend the gripping tabs beyond the spring fingers so as to be more accessible.

As to claims 10 and 14, applicant refers to the hinge clip of figure 6 of Rissin. However, the rejection doesn't use this species, but the species of figures 4a, 4b that clearly show the stabilizer extending radially of the post receiving clasp so as to permit heavier earrings to be worn comfortably.

Applicant's noting of the typographical error referring to the Burkett patent in the statement of several rejections in the last office action is noted and it is appreciated that applicant recognized the jewelry patent to Burkett was being referred to.

Allowable Subject Matter

Claims 2-8, 11-13, and 15-17 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Conclusion

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of

Art Unit: 3677

the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to James R. Brittain whose telephone number is 703-308-2222. The examiner can normally be reached on M-W & F from 5:30 to 1:30 and Th from 5:30 to 4:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, J. J. Swann can be reached on 703-306-4115. The fax phone numbers for the organization where this application or proceeding is assigned are 703-872-9326 for regular communications and 703-872-9327 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-1113.



James R. Brittain
Primary Examiner
Art Unit 3677

JRB
May 5, 2003